

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 2/4/22

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CHRISTOPHER MOONEY AND NICOLE	:
MOONEY,	:
	:
Plaintiffs,	:
	:
-against-	:
	:
NEW YORK FERTILITY INSTITUTE, 1016	:
5 TH AVENUE GYNECOLOGY, PC, MAJID	:
FATEH, M.D. AND KHALID M. SULTAN,	:
M.D.,	:
	:
Defendants.	:
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20-CV-4345 (VEC)

ORDER

VALERIE CAPRONI, United States District Judge:

WHEREAS it has been determined that Courtroom 443, Thurgood Marshall Courthouse, has adequate ventilation to allow people to remove their masks when speaking, provided they are appropriately socially distanced;

WHEREAS notwithstanding the adequate ventilation, based on a new Courthouse-wide safety protocol, no one may unmask in the Courtroom 443 unless he or she has tested negative for COVID-19 using an approved molecular diagnostic test (antigen tests are not approved);

WHEREAS if a person has had a confirmed case of COVID-19 (verified by either a doctor's note or a viral test result) within the prior ninety days, he or she will be exempted from these testing requirements; confirmation of negative test results (or of a prior case of COVID-19) must be provided to the Court through its staff;

IT IS HEREBY ORDERED that this policy will be in effect for the sentencing scheduled for Tuesday, February 8, 2022 at 10:00 a.m. It applies to all parties, counsel, and Court staff who wish to speak without a mask. Counsel should make adequate preparations to comply with

the requirements before arriving for the hearing, as the Court will not grant any delay because of this policy. Alternatively, if counsel or the parties do not wish to undergo testing, they may choose to remain masked at all times, including while speaking.

IT IS FURTHER ORDERED that the Court has tests that can be made available to the parties and counsel free-of-charge provided that there is 24-hours' notice sent to covid_response@nysd.uscourts.gov; arrangement must be made to take the test at least one hour prior to the scheduled appearance time. Alternatively, counsel and parties may arrange to be tested away from the Courthouse.

Only the following tests have been approved:

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe) • LAMP (Loop-mediated Isothermal Amplification)
- Accepted molecular diagnostic test brands, including but not limited to:
 - Abbott ID NOW
 - Quidel Lyra PCR
 - Abbott Realtime PCR
 - Cobas Qualitative PCR
 - FTD PCR
 - Xpert Xpress
 - Simplexa Direct PCR
 - RUCDR Infinite Biologics
 - Lucira Health

The following tests are NOT approved:


- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests

Anyone wishing to remove his or her mask must provide the Court with proof that he or she has taken an approved test within the last 24 hours as to which the results were negative.

Any questions regarding this order should be directed to covid_response@nysd.uscourts.gov.

SO ORDERED.

Date: February 4, 2022
New York, New York


VALERIE CAPRONI
United States District Judge